

**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES OFFICE OF
CONSERVATION AND COASTAL LANDS
Honolulu, Hawaii**

September 26, 2008

CDUP: KA-3307

**Board of Land and
Natural Resources
State of Hawaii
Honolulu, Hawaii**

REGARDING: Time Extension Requests for Conservation District Use Permit (CDUP) KA-3307 for a .5-Gallon Water Storage Tank, Site Improvements and Subdivision

APPLICANT: County of Kauai-Department of Water

LANDOWNER: State of Hawaii
Department of Land and Natural Resource

LOCATION: Kapaa Homestead, Kawaihau, Kauai

TMK: (4) 4-6-003:010

AREA OF USE: 38,480 ft²

SUBZONE: Resource

BACKGROUND:

On September 8, 2006, the Board approved CDUP KA-3307 for the .5-Gallon Water Storage Tank, associated site improvements and subdivision of land, subject to 13 conditions. Condition 3 states, "Any work done on the land shall be initiated within one year of the approval of such use, and unless otherwise authorized be completed within three years of the approval. The applicant shall notify the Department in writing when construction activity is initiated and when it is completed." (**Exhibits 1**)

On September 19, 2007, the Department approved a request for a first time extension of construction initiation deadline to September 8, 2008 (**Exhibit 2**).

TIME EXTENSION REQUEST:

On August 19, 2008, the Office of Conservation and Coastal Lands (OCCL) received correspondence from the County of Kauai's Department of Water (DOW) requesting another 1-year extension to initiate construction. A contract for the tank construction has

been awarded however a building permit has not yet been issued. County of Kauai approval is anticipated to be granted by the end of the year. **(Exhibit 3)**

On August 28, 2008, the OCCL received correspondence from County of Kauai's DOW requesting to extend the construction completion deadline by 18 months. **(Exhibit 4)**.

Staff notes construction plans have been recently approved and construction shall be initiated once a building permit is obtained. Currently, the date that construction must be initiated is September 8, 2008 and construction must be completed by September 8, 2009.

DOW is now requesting to extend the construction initiation a year to September 8, 2009 and to extend completion of construction to March 8, 2011.

AUTHORITY FOR GRANTING TIME EXTENSIONS:

The authority for the granting of time extensions is provided in Section 13-5-43, Hawaii Administrative Rules (HAR), which allows for permittees to request time extensions for the purpose of extending the period of time to comply with the conditions of a permit.

Additionally, §13-5-43, HAR, states that: "All time extensions shall be submitted to the department thirty days before the expiration deadline. If a request is received less than thirty days before the due date the request for time extension shall be forwarded to the Board for review."

Further, Section 13-5-43, HAR provides that time extensions may be granted by the Board upon the second or subsequent request for a time extension, based on supportive documentation from the applicant.

BASIS FOR TIME EXTENSIONS:

A time extension may be sought when a Permittee is unable to initiate or complete a project within the stipulated time frame. The Board grants time extensions when a Permittee demonstrates some sort of hardship or delay in initiating work on a particular project. Moreover, the Permittee should be able to demonstrate that the hardship or delay has not been self-imposed and that some good faith effort has been made to undertake the project.

DISCUSSION:

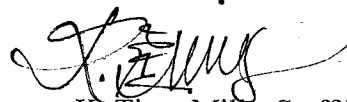
In the present case, none of these factors suggest any reason to deny the request. The Permittee has submitted all the required documents to obtain permits and approvals to initiate project construction. Approval of the time extension requests shall hopefully provide the additional time needed to initiate and complete the water storage tank improvements and subdivision.

RECOMMENDATION:

That the Board of Land and Natural Resources **APPROVE** an extension to initiate construction to September 8, 2009 and to complete construction of the water storage tank improvements and subdivision by March 8, 2011 subject to the following conditions:

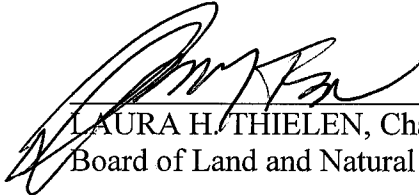
1. That condition #3 of CDUP KA-3307 is amended to provide that the Permittee has until September 8, 2009 to initiate construction and until March 8, 2011 to complete construction; and
2. That all other conditions imposed by the Board under CDUP KA-3307, as amended, shall remain in effect.

Respectfully submitted,



K. Tiger Mills, Staff Planner
Office of Conservation and Coastal Lands

Approved for submittal:



LAURA H. THIELEN, Chairperson
Board of Land and Natural Resources

LINDA LINGLE
GOVERNOR OF HAWAII



6 OCT -5 P4:20



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
COUNTY OF KAUAI
OFFICE OF CONSERVATION AND COASTAL LANDS

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

PETER T. YOUNG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
DEPUTY DIRECTOR

DEAN A. NAKANO
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:OCCL:MC

CDUP: KA-3307

Mr. Glen Koyama
Belt Collins Hawai'i Ltd.
2153 N. King Street, Suite 200
Honolulu, HI 96819

SEP 15 2006

Dear Mr. Koyama:

SUBJECT: CONSERVATION DISTRICT USE APPLICATION (CDUA) KA-3307
500,000-Gallon Water Storage Tank, Site Improvements, and Subdivision
Kapa'a Homesteads in Kawaihau, Kaua'i
TMK (4) 4-6-03:10

This is to inform you that on September 8, 2006, the Board of Land and Natural Resources approved this Conservation District Use Application (CDUA) KA-3307 for a 500,000-Gallon Water Storage Tank, associated site improvements, and the subdivision of land at the subject parcel located above Kapa'a Homesteads in Kawaihau, Kaua'i, TMK (4) 4-6-03:10, subject to the following conditions:

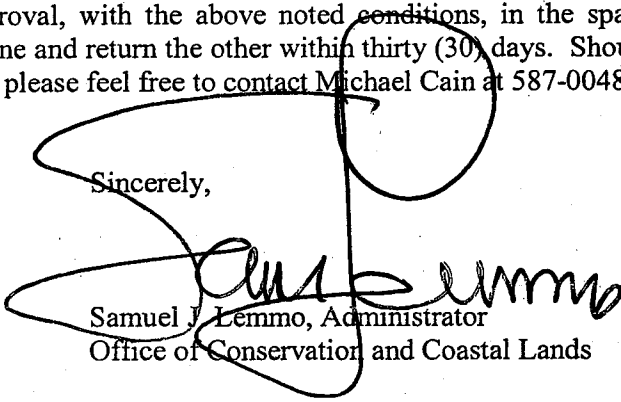
- 1) The applicant shall comply with all applicable statutes, ordinances, rules, regulations, and conditions of the Federal, State and County governments;
- 2) The applicant shall comply with all applicable Department of Health administrative rules. Particular attention should be paid to Hawai'i Administrative Rules (HAR) Section 11-60.1-33, "Fugitive Dust" and to Chapter 11-46, "Community Noise Control;"
- 3) Any work done on the land shall be initiated within one year of the approval of such use, and unless otherwise authorized be completed within three years of the approval. The applicant shall notify the Department in writing when construction activity is initiated and when it is completed;
- 4) Before proceeding with any work authorized by the Board, the applicant shall submit four (4) copies of the construction and grading plans and specifications to the Chairperson or his authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three (3) of the copies will be returned to the applicant. Plan approval by the Chairperson does not constitute approval required from other agencies;
- 5) In issuing this permit, the Department has relied on the information and data that the applicant has provided in connection with this permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings;

EXHIBIT I

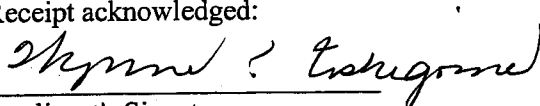
- 6) The applicant understands and agrees that this permit does not convey any vested rights or exclusive privilege;
- 7) Where any polluted run-off, interference, nuisance, or harm may be caused, or hazard established by the use, the applicant shall be required to take measures to minimize or eliminate the polluted run-off, interference, nuisance, harm, or hazard;
- 8) The applicant acknowledges that the approved work shall not hamper, impede or otherwise limit the exercise of traditional, customary or religious practices in the immediate area, to the extent such practices are provided for by the Constitution of the State of Hawai'i, and by Hawai'i statutory and case law;
- 9) During construction, appropriate mitigation measures shall be implemented to minimize impacts to the marine environment, off-site roadways, utilities, and public facilities;
- 10) The applicant will cease work if any significant archaeological ruins or human skeletal remains are uncovered during the work, and will then contact the DLNR State Historic Preservation Division;
- 11) The applicant shall provide documentation (e.g., book and page, or document number) that the permit approval has been placed in recordable form as a part of a deed instrument;
- 12) Other terms and conditions as may be prescribed by the Chairperson; and
- 13) Failure to comply with any of these conditions shall render this Conservation District Use Permit null and void.

Please acknowledge receipt of this approval, with the above noted conditions, in the space provided below. Please sign two copies. Retain one and return the other within thirty (30) days. Should you have any questions on any of these conditions, please feel free to contact Michael Cain at 587-0048.

Sincerely,


Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

Receipt acknowledged:

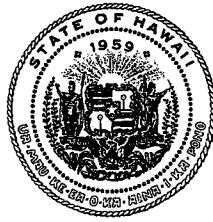

Applicant's Signature

Date 10/9/06

Wynne Hahigami

cc: DLNR Chair
Kaua'i Department of Planning

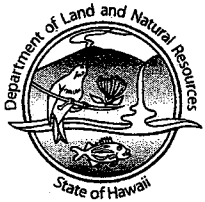
LINDA LINGLE
GOVERNOR OF HAWAII



LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
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BUREAU OF CONVEYANCES
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CONSERVATION AND COASTAL LANDS
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LAND
STATE PARKS



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

ref:OCCL:MC

CDUP KA-3307

Wynne M. Ushigome
Department of Water, County of Kaua'i
4398 Pua Loke Street
Lihu'e, HI 96766

SEP 19 2007

Dear Ms. Ushigome,

**SUBJECT: REQUEST TO EXTEND PERMITTING DEADLINES
CONSERVATION DISTRICT USE PERMIT (CDUP) KA-3307
500,000-Gallon Water Storage Tank, Site Improvements, and Subdivision
Kapa'a Homesteads in Kawaihau, Kaua'i
TMK (4) 4-6-03:10**

The Office of Conservation and Coastal Lands (OCCL), part of the Department of Land and Natural Resources (DLNR), has reviewed your request for a one-year extension on the start date of CDUP KA-3307 for a 500,000-Gallon Water Storage Tank, associated site improvements, and the subdivision of land at the above subject parcel. The permit was approved by the Board of Land and Natural Resources on September 8, 2006.

As a condition of the permit, work was to be initiated one year from that date. You have requested to extend the project's initiation date by one year, to September 8, 2008.

According to the information you provided, the Department of Water needed to obtain a right-of-entry prior to proceeding with bidding and construction of the project. This request went before the Board on August 24, 2007.

The authority to grant time extensions on this permit lies with the Chair of the Board of Land and Natural Resources, pursuant to Hawai'i Administrative Rules (HAR) § 13-5-43 Time Extensions (a) *Permittees may request time extensions for the purpose of extending the period of time to comply with the conditions of the permit, and (b) Time extensions may be granted as determined by the chairperson on all departmental permits and on the first request for an extension of a board permit.*

We have no objections to this proposal, and will amend the permit to read that the work must be initiated before September 8, 2008.


EXHIBIT 2

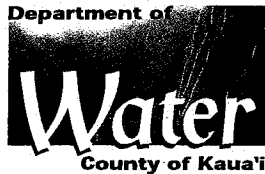
Wynne M. Ushigome
Department of Water, County of Kaua'i

CDUP KA-3307
2/2

Please call Michael Cain at 587-0048 should you have any further questions.

Aloha,


for LAURA H. THIELEN, Chair
Board of Land and Natural Resources



Water has no substitute.....Conserve it

RECEIVED
OFFICE OF CONSERVATION
AND COASTAL LANDS

2008 AUG 19 A 10:05

August 14, 2008

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

RECEIVED
AUG 18 A 9:06

Chairperson of the Land Board
Department of Land and Natural Resources
P.O. Box 621
Honolulu, HI 96809

Dear Chairperson:

Subject: Conservation District Use Application CDUA KA-3307, DOW Job No.
02-14, WK-08, 0.5 Million Gallon Kapaa Homesteads Storage Tank, Tax
Map Key: 4-6-03:010, Kapaa, Kaua'i, Hawaii

We would like to request an extension of one year to start construction for this project as required by Item 3 of the conditions for the Conservation District Use Application (CDUA KA-3307) approval dated September 8, 2006. An extension to September 8, 2008 was granted on September 19, 2007, however, we will not be able to start construction until a building permit is approved by the County, which is anticipated to be by the end of the year. A contract for the tank construction has been awarded with notice to proceed issued for September 2, 2008, however, they will not be able to start until a building permit is issued by the County.

We look forward to your favorable decision.

Please contact Keith Fujimoto of my staff at kfujimoto@kauaiwater.org if you have any questions or concerns.

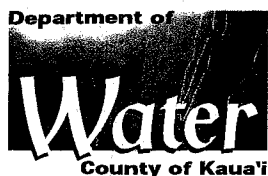
Sincerely,

Wynne M. Ushigome
Acting Manager and Chief Engineer

KF:emi
c: Cary Kondo, Belt Collins Hawaii
Mark Salmon, RW Beck

EXHIBIT 3

42610



Water has no substitute.....Conserve it

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OFFICE OF CONSERVATION
AND COASTAL LANDS

RECEIVED

2008 AUG 28 P 2:37

08 AUG 28 A8:13

August 25, 2008

DEPT. OF LAND &
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STATE OF HAWAII

DEPT. OF LAND
& NATURAL RESOURCES
STATE OF HAWAII

Chairperson of the Land Board
Department of Land and Natural Resources
P.O. Box 621
Honolulu, HI 96809

Dear Chairperson:

Subject: Conservation District Use Application CDUA KA-3307, DOW Job No.
02-14, WK-08, 0.5 Million Gallon Kapaa Homesteads Storage Tank, Tax
Map Key: 4-6-03:010, Kapaa, Kaua'i, Hawaii

We would like to request an extension of 18 months to complete the construction for this project as required by Item 3 of the conditions for the Conservation District Use Application (CDUA KA-3307) approval dated September 15, 2006. An extension to September 8, 2008 was granted on September 19, 2007. A contract for the tank construction has been awarded with notice to proceed issued for September 2, 2008; however, they will not be able to start until a building permit is issued by the County, which will probably be at the beginning of next year.

We look forward to your favorable decision.

Please contact Keith Fujimoto of my staff at kfujimoto@kauaiwater.org if you have any questions or concerns.

A handwritten signature in cursive script, appearing to read "Wynne M. Ushigome".

Wynne M. Ushigome
Acting Manager and Chief Engineer

c: Cary Kondo, Belt Collins Hawaii
Mark Salmon, RW Beck

EXHIBIT 4